

**2016 GENERAL ASSEMBLY  
VIRGINIA BEACH BAR ASSOCIATION  
CLE REVIEW**

**JUNE 23, 2016**

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## **Highlights from the Virginia Trial Lawyers Association – 2016 Bills of Interest**

### **1. HB19 – No oath required for Ministers**

Provides that no oath shall be required of a minister or other person who seeks authorization to perform the rites of matrimony and that no such authorized minister or other person shall be considered an officer of the Commonwealth by virtue of such authorization.

### **2. HB44 – Injuries presumed to be in course of employment, Workers' Compensation**

Establishes presumptions in claims under the Virginia Workers' Compensation Act that the accident arose out of and in the course of employment if the employee (i) dies with there being no evidence that he ever regained consciousness after the accident, (ii) dies at the accident location or nearby, or (iii) is found dead where he is reasonably expected to be as an employee.

These presumptions will exist in the absence of a preponderance of evidence to the contrary and where the factual circumstances are of sufficient strength from which the only rational inference to be drawn is that the accident arose out of and in the course of employment.

### **3. HB52 – Structured Settlement Protection Act**

Amends the Structured Settlement Protection Act (the Act) to provide that the structured settlement obligor and the annuity issuer may rely on a court order approving a transfer of structured settlement payment rights in redirecting periodic payments to an assignee or transferee in accordance with the order. The measure provides that upon entry of such an order the structured settlement obligor and the annuity issuer shall be discharged and released from any and all liability for the transferred redirected payments as to all parties except the transferee or an assignee designated by the transferee. The discharge and release of the structured settlement obligor and the annuity issuer shall not be affected by the failure of any party to the transfer to comply with the Act or with the court order approving the transfer.

The measure also provides that an application for approval of a structured settlement transfer shall be brought in the circuit court of the city or county in which the payee is domiciled at the time the transfer agreement was signed or, if the payee is not domiciled in Virginia, then the application may be brought in the court in Virginia that approved the structured settlement agreement. The payee is required to appear in person at the hearing unless the court finds that good cause exists to excuse such an appearance. The measure also provides that a court may hear an application for transfer of payment rights under a structured settlement despite the existence of terms

in the underlying structured settlement agreement that purport to restrict or preclude the payee's right or power to sell, assign, or encumber structured settlement payment rights.

An application for approval of a transfer is required to include a summary of information regarding prior transfers and notice of the hearing. The period in which responses to the application must be filed with the court is changed from not less than 15 days after service of the notice to five days prior to the hearing. Existing provisions that provide for approval of a transfer of structured settlement payment rights by a responsible administrative authority are deleted from the Act.

**4. HB342/SB466 – Guardianship; Communication between incapacitated person and others**

Provides that a guardian shall not unreasonably restrict an incapacitated person's ability to communicate with, visit, or interact with other persons with whom the incapacitated person has an established relationship.

**5. HB378/SB631 – Fee schedules for medical and legal services; Workers' compensation**

Directs the Workers' Compensation Commission (the Commission) to adopt regulations establishing fee schedules setting the maximum pecuniary liability of the employer for medical services provided to an injured person pursuant to the Virginia Workers' Compensation Act, in the absence of a contract under which the provider has agreed to accept a specified amount for the medical service. The regulations implementing the fee schedules shall become effective on January 1, 2018.

The initial fee schedules will set amounts based on a reimbursement objective, which is the average of all amounts paid to providers in the same category of providers for the medical service in the same medical community. The Commission is required to retain a firm to assist it in establishing the initial fee schedules. The firm will recommend a methodology that will provide statistically valid estimates of the reimbursement objective for fee scheduled medical services within the medical communities. Reimbursements for medical services provided to treat traumatic injuries and serious burns are excluded from the fee schedules and liability for their treatment costs will be based, absent a contract, on 80 percent of the provider's charges. However, the required reimbursement will be 100 percent of the provider's charges if the employer unsuccessfully contests the compensability of the claim. The Commission is required to review and revise the fee schedules in the year after they become effective and biennially thereafter.

The liability of the employer for certain medical services not included in a fee schedule will be set by the Commission. A stop-loss feature allows hospitals

to receive payments or reimbursements that exceed the fee schedule amount for certain claims when the total charges exceed a charge outlier threshold, which initially is 150 percent of the maximum fee for the service set forth in the applicable fee schedule. Providers are prohibited from using a different charge master or schedule of fees for any medical service provided for workers' compensation patients than the provider uses for health care services provided to patients who are not claimants. The measure requires the Commission, when determining whether the employee's attorney's work with regard to a contested claim resulted in an award of benefits that inure to the benefit of a third-party insurance carrier or health care provider, and in determining the reasonableness of the amount of any fee awarded to an attorney, to consider only the amount paid by the employer or insurance carrier to the third-party insurance carrier or health care provider for medical services rendered to the employee through a certain date and not to consider additional amounts previously paid to a health care provider or reimbursed to a third-party insurance carrier.

The Commission shall have an independent, peer-reviewed study conducted every two years. The regulations setting fee schedules are exempt from the Administrative Process Act if the Commission utilizes a regulatory advisory panel to assist in the development of such regulations and provides an opportunity for public comment on the regulations prior to adoption. The measure prohibits certain practices involving the use by third parties of contracts whereby a provider agrees to accept payment of less than the fee scheduled amount, including restricting the sale, lease, or other dissemination of information regarding the payment amounts or terms of a provider contract without the express written consent and prior notification of all parties to the provider contract and prohibiting an employer from shopping for the lowest discount for a specific provider among the provider contracts held in multiple PPO networks.

The regulatory advisory panel is directed to make recommendations to the Commission prior to July 1, 2017, on workers' compensation issues relating to (i) pharmaceutical costs not previously included in the fee schedules; (ii) durable medical equipment costs not previously included in the fee schedules; (iii) certain awards of attorney fees; (iv) peer review of medical costs; (v) prior authorization for medical services; and (vi) other issues that the Commission assigns to it. The existing peer review provisions are repealed.

**6. HB703/SB415 - Legal Age for marriage**

Provides that both parties to a marriage must be 18 years of age or older or emancipated at the time of solemnization by removing exceptions that allow marriage at a minimum age of 16 with the consent of the parent or guardian or younger than 16 in the case of pregnancy and with the consent of the parent or guardian and provides that marriages entered into in violation of

this law are voidable.

The bill also allows a minor to petition the juvenile and domestic relations district court for emancipation based on such minor's desire to enter into a marriage. The bill provides that, to allow emancipation based on such minor's desire to enter into a marriage, the court must make certain written findings, including that it is the minor's own will to enter into the marriage, that the individuals to be married are mature enough to make a decision to marry, that the marriage will not endanger the safety of the minor, and that it is in the best interests of the minor to be emancipated.

**7. HB817/SB494 – FOIA record exclusions, rule of redaction**

Reverses the holding of the Virginia Supreme Court in the case of *Department of Corrections v. Surovell*, by setting out the general rule of redaction, which provides that no provision of FOIA is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by FOIA or by any other provision of law.

Further, the bill states that a public record may be withheld from disclosure in its entirety only to the extent that an exclusion from disclosure under FOIA or other provision of law applies to the entire content of the public record. Otherwise, only those portions of the public record containing information subject to an exclusion under FOIA or other provision of law may be withheld, and all portions of the public record that are not so excluded shall be disclosed.

The bill defines the term "information" and provides that it is declaratory of the law as it existed prior to the September 17, 2015, decision of the Supreme Court of Virginia in the case of the *Department of Corrections v. Surovell*. The bill also reverses that part of the holding of the Virginia Supreme Court in the case of *Department of Corrections v. Surovell* by providing that in a FOIA enforcement action, no court shall be required to accord any weight to the determination of a public body as to whether an exclusion applies.

**8. HB1117 – Immunity of persons at public hearing; reasonable attorney fees and costs**

Allows the award of reasonable attorney fees and costs to any person who has a suit against him dismissed pursuant to immunity provided to him when appearing at a public hearing before the governing body of a locality or other local governmental entity.

**9. HB1128 – Spouse's liability for medical care, exemption for principal residence**

Provides that a lien arising out of a judgment for a spouse's emergency

medical care shall not be enforced against the judgment debtor's principal residence held as tenants by the entireties unless the residence is refinanced or transferred to new owners.

**10.HB1213 – Minors; certain education records as evidence**

Provides that in any proceeding where a juvenile is alleged to have committed a delinquent act that would be a misdemeanor if committed by an adult on school property, property solely being used for a school-related or school-sponsored activity, or a school bus, the juvenile may introduce into evidence as relevant to whether he acted intentionally or willfully any document created prior to the commission of the delinquent act that relates to certain educational plans or behavioral assessments.

The bill provides that such documents shall be admitted as evidence of the facts stated therein, provided that the minor gives notice of his intent to introduce such evidence and copies of such evidence to the attorney for the Commonwealth at least 10 days before trial. The bill allows such reports or documents to be placed under seal by the court.

**11.HB1391/SB49 – Protective Orders; possession of firearms**

Provides that it is a Class 6 felony for a person who is subject to a permanent protective order (i.e., a protective order with a maximum duration of two years) for family abuse to possess a firearm while the order is in effect. The bill also provides that such person may continue to possess and transport a firearm for 24 hours after being served with the order for the purposes of selling or transferring the firearm to another person. Under current law, it is a Class 1 misdemeanor for a person subject to a protective order to purchase or transport a firearm.

**12.SB57 – Judges; increases number in 19<sup>th</sup> and 25<sup>th</sup> Judicial Districts**

Increases from seven to eight the number of juvenile and domestic relations district court judges in the 19<sup>th</sup> Judicial District (Fairfax, Fairfax County) and increases from three to four the number of general district court judges in the 25<sup>th</sup> Judicial District (Covington, Lexington, Staunton, Buena Vista, Waynesboro, Highland, Augusta, Rockbridge, Bath, Alleghany, Botetourt, and Craig). This bill is a recommendation of the Committee on District Courts. This has a delayed effective date of July 1, 2018.

**13.SB90 – Discovery Rule; statute of limitations**

Provides that the period of limitations for filing a cause of action for injury resulting from implanted medical devices accrues from the time the person knew or should have known of the injury and its causal connection to such device.

**14.SB117 – Motor Vehicle Doors; operator to wait for a reasonable opportunity to open**

Requires drivers to wait for a reasonable opportunity to open vehicle doors on the side adjacent to moving traffic. A violation constitutes a traffic infraction punishable by a fine of not more than \$50.

**15.SB125 – Punitive damages; persons injured by intoxicated drivers**

Provides that, for the purposes of a punitive damages award in a civil action for personal injury or death arising from the operation of a motor vehicle while intoxicated, in order to have a rebuttable presumption that a defendant's blood alcohol concentration at the time of the incident causing injury or death was at least as high as results of a blood or breath test, such test must have been administered in accordance with the provisions of §§ 18.2-268.1 through 18.2-268.12, which lay out the procedures for obtaining blood and breath tests. Under current law, to have the rebuttable presumption, such blood or breath test must have been administered within three hours of the incident causing injury or death.

**16.SB133/HB681 – Trafficking in persons; civil cause of action**

Creates a civil cause of action against individuals who engage in (i) abduction of any person for the purpose of prostitution, any child under 16 years of age for concubinage, or any minor for the purpose of manufacturing child pornography; (ii) solicitation of prostitution from a minor; or (iii) commercial sex trafficking, or who aid in the conduct thereof.

**17.SB170/HB441 – Nonsuits; tolling of limitations; contractual limitation periods**

Provides that a voluntary nonsuit tolls both a contractual limitation period and a statutorily governed limitation period.

**18. SB478 – Eminent Domain; reimbursement of costs**

Provides that costs and fees may be awarded in compensation actions initiated by public service companies, public service corporations, railroads that have been delegated the power of eminent domain, or government utility corporations where the amount that the owner is awarded at trial as compensation for the taking of or damage to his real property is 30 percent or more greater than the amount of the petitioner's final written offer. The bill further provides that, for owners whose property is taken by condemnation under Title 25.1 or Title 33.2, costs and fees may be awarded where such compensation is 25 percent or more greater than the amount of the condemnor's initial written offer.

The provisions of the bill do not apply to condemnation proceedings in which the petitioner filed, prior to July 1, 2016, a petition in condemnation or a certificate of take or deposit. The provisions of § 25.1-245 in effect prior to July 1, 2016, shall govern condemnation proceedings in which a petitioner filed a petition in condemnation or certificate of take or deposit after July 1,

2005, and prior to July 1, 2016.

**19.SB611 – Tort claim; notice of claim against the Commonwealth, transportation district, or locality**

Provides that the bar to a tort claim against the Commonwealth, a transportation district, or a locality for failure to file a written statement within one year, or within six months if the claim is against a locality, after the cause of action accrues does not apply where there was actual knowledge of the claim within one year by (i) for claims against the Commonwealth, the Division of Risk Management or any insurer or entity providing coverage or indemnification of the claim or the Attorney General; (ii) for claims against a transportation district, the chairman of the commission of such transportation district; or (iii) for claims against a locality, the attorney, chief executive, or mayor of such locality.

The bill clarifies that actual knowledge of the claim includes the nature of the claim, the time and place at which the injury is alleged to have occurred, and, for claims against the Commonwealth or a transportation district, the agency or agencies alleged to be liable. The bill further provides that a claim against the Commonwealth or a transportation district is barred unless an action on the claim is commenced within 18 months of the filing of notice of such a claim or within two years after the cause of action accrues.

**20.SB728 – Punitive Damages; injury by intoxicated drivers, admission of evidence**

Provides that, when considering what amount of punitive damages to award in a civil action for personal injury or death resulting from the operation of a motor vehicle while intoxicated, the finder of fact may consider evidence of the defendant's similar conduct subsequent to the date of the personal injury or death.

## **Other Statewide Issues**

**1. 2015 Election Review**

In November 2015, all 140 seats of the General Assembly were up for reelection and control of the State Senate was at stake. \$82 million was spent statewide in the election and the results were the same. Republicans maintained control of the Senate, 21-19, easily maintain control in the House, 66-34, and not a single incumbent lost in the General Election.

The Senate welcomed six new members to the chamber in January. The House welcomed eleven new members.

**2. HB1344/SB731 - \$350M Appropriation for Port Expansion**

These two bills authorize the Virginia Public Building Authority and the Virginia College Building Authority to issue bonds in a total aggregate



amount not to exceed \$2,067,651,677 plus costs to fund certain capital projects.

NIT Optimization would convert the South Yard of the Terminal from straddle carrier operation to automated Rail Mounted Gantry cranes (RMGs). The use of RMGs will allow higher and denser container stacks generating additional capacity and improved level of service for motor carriers, rail providers, and cargo owners.

NIT's capacity will increase by 46.24% from 1.4 million twenty-foot equivalent units (TEUs) to 2.1 million TEUs, without adding an inch to NIT's existing footprint. The first stacks will be completed by 2017 with all 30 stacks complete by 2019.

**3. HB834/SB449 - Virginia Growth and Opportunity Act**

Establishes the Virginia Growth and Opportunity Board to administer grants from the Virginia Growth and Opportunity Fund for regional economic and workforce development projects.

The bill provides that regional councils will be established across the Commonwealth, consisting of representatives of government and the business and education communities, and councils may submit applications for collaborative projects in their regions that enhance private-sector growth, competitiveness, and workforce development.

A portion of the grant funds will be awarded on a population basis and a portion on a competitive basis, but no such grants shall be awarded absent a subsequent enactment of the General Assembly authorizing the award of grants.

**4. HB846/SB459 - Virginia Collaborative Economic Development Act**

Creates the Virginia Collaborative Economic Development Performance Grant Fund (the Fund). The Fund will be administered by the Go Virginia Board.

Two or more localities that collaborate and adopt a collaborative economic development plan will be eligible for grants from the Fund over a period of six years if the collaboration results in the location or expansion of a company in the Commonwealth that (i) creates at least 200 new jobs with average salaries at least equal to the average wage and (ii) makes a capital investment of at least \$25 million.

The total amount of the grant applied for shall not exceed 50 percent of the total investment of the localities in executing the collaborative economic development plan, and each annual installment of the grant may not exceed 45 percent of the total annual amount of personal income tax withheld by the

certified company from the newly created jobs. Upon making a written finding of significant fiscal distress in or extraordinary economic opportunity for the participating localities, the Go Virginia Board may lower the job and capital investment requirements to no fewer than 25 new jobs and no less than \$1 million in capital investment and may award up to 100 percent of the total investment of the localities.

No grants shall be awarded absent a subsequent enactment of the General Assembly authorizing the award of the grants, and the grant program will sunset on July 1, 2026.

**5. Statewide Tolling Policy –HB 30 Item 4-14 #1c and HB 1069**

The budget amendment restricts the authority of the CTB, VDOT, NVTA, and HRTAC to impose tolls. The budget amendment prohibits tolling on existing untolled lanes without General Assembly approval, except HOV lanes, new lane capacity, new bridges, and short segments of highway between existing toll facilities. The budget amendment maintains existing tolling prohibition on Interstate 81.

The budget amendment excludes truck-climbing lanes from being tolled as auxiliary lanes. The budget amendment directs the Commonwealth to return its existing federal pilot tolling slot for I-95 South of Fredericksburg.

The bill requires the Department of Transportation to allow E-ZPass account holders to provide an email or phone number and to electronically notify account holders of a toll violation and further requires toll operators to notify the Department of such toll violations. HB1069 amends the definition of high-occupancy toll (HOT) lanes to ensure that mass transit vehicles and commuter buses meet the high-occupancy requirement.

HB1069 lengthens, from 30 to 60 days, the time period before the administrative fee increases from \$25 to \$100 for all toll violations. HB1069 decreases the civil penalties for an unpaid toll violation on the HOT lanes, making them equal to civil penalties for other toll violations, and allows the HOT lanes operator to offer reduced civil penalties if the owner of the vehicle pays within 14 days prior to the hearing date, which is also permitted for other toll operators. For violations on any toll road, HB1069 provides that for a first conviction there is a cap of \$2,200 on civil penalties and administrative fees. HB1069 also provides for a 10-day grace period for unpaid tolls and requires toll operators to attempt to process and collect unpaid tolls twice during such period.

HB1069 allows the Governor to enter into agreements on behalf of the Commonwealth with other states to provide for the enforcement of tolling violations occurring in Virginia on out-of-state residents and to enforce tolling violations in other states on Virginia residents. Reciprocity

agreements with other states would provide for notification of the Commissioner of the Department of Motor Vehicles (DMV) or other similar entity in another state so that violators who have not paid would have their registration suspended in accordance with the agreement. HB1069 allows for agreements between toll operators or high-occupancy toll (HOT) lanes operators and DMV to include necessary information to enforce reciprocity agreements.

HB1069 states that a toll violation on the HOT lanes is a traffic infraction and that a HOT lanes operator shall mail the statutorily required invoice for unpaid tolls, as is the case for other toll violations. HB1069 clarifies references to the issuance of summonses for toll violations and requires toll operators to attempt to collect tolls through a debt collector before mailing a summons. HB1069 provides for a two-year statute of limitations for all toll violations.

#### **6. Supreme Court Appointment**

Governor McAuliffe appointed Jane Roush, a Circuit Court Judge from Fairfax County, in July, 2015. She was not confirmed by the General Assembly. Their preferred candidate was Rossie Alston, a Virginia Court of Appeals Judge. Alston was unable to get enough votes in the Senate; instead they proposed former Attorney General Ken Cuccinelli. When Cuccinelli removed his name from consideration, Appeals Court Judge Stephen McCullough was proposed and confirmed by both chambers. McCullough graduated from the University of Virginia and received his law degree from the University of Richmond. In 1999, he joined the criminal litigation section of the Office of the Attorney General. In 2006, Attorney General Bob McDonnell promoted him to deputy solicitor general. Attorney General Ken Cuccinelli appointed him to serve as opinions counsel and senior appellate counsel. In 2011, the General Assembly elected McCullough to an eight-year term on the Court of Appeals. He was elected by the General Assembly to a twelve-year term on the Supreme Court on March 10.

#### **7. Restoration of Rights Order – April 22, 2016**

“Governor McAuliffe restored the voting and civil rights of more than 200,000 Virginians who were convicted of felonies, served their time and completed any supervised release, parole or probation requirements. Each of those Virginians will immediately regain the right to register to vote, to run for office, to serve on a jury and to serve as a notary public.”

General Assembly Republicans have filed a lawsuit to block the governor’s order, calling his blanket restoration unconstitutional. “Governor McAuliffe adopted an unprecedented view of executive authority and exceeded the powers granted to him by the Constitution of Virginia when he issued the order restoring the rights of more than 200,000 convicted felons,” said

Speaker Howell.

## **8. Code Commission Study of gender-specific references in the Code of Virginia**

In 2015, the U.S. Supreme Court ruled in *Obergefell v. Hodges* that states must license same-sex marriages and recognize same-sex marriages performed in other states. Numerous Code sections enacted prior to the *Obergefell* decision contain language, i.e. gender-specific terms, which may no longer be consistent with the right to same-sex marriage. In addition, numerous bills amending Virginia's laws governing discrimination were referred to the Code Commission during the 2016 General Assembly Session. A recent AG's opinion issued on May 10, 2016, addressing Virginia's anti-discrimination statutes illustrates the current unsettled state of the law on both the state and national level.

Proposed stakeholders will be contacted in July 2016 and asked to participate in outlined workgroups covering relevant provisions already identified. Workgroup membership will be presented to the Code Commission in August 2016. Workgroups will meet throughout the rest of 2016 and through 2017 with a final report due to the Commission at their final meeting in 2017.

## **9. Oyster Grounds**

Numerous bills were filed (HB640, SB254, SB298, & SB397) looking to limit the oyster farming in the Lynnhaven River and its tributaries. The legislation was driven by very public conflict between landowners on the water and Oysterman. In response, the General Assembly asked the Virginia Marine Resources Commission to convene a workgroup to study the issue and develop recommendations for the 2017 Session.

## **10. Proffer Bill – HB 770/SB 549**

Provides that no locality shall (i) request or accept any unreasonable proffer in connection with a rezoning or a proffer condition amendment as a condition of approval of a new residential development or new residential use or (ii) deny any rezoning application, including an application for amendment to an existing proffer, for a new residential development or new residential use where such denial is based on an applicant's failure or refusal to submit, or remain subject to, an unreasonable proffer.

A proffer shall be deemed unreasonable unless it addresses an impact that is specifically attributable to a proposed new residential development or other new residential use applied for. An offsite proffer shall be deemed unreasonable pursuant to the above unless it addresses an impact to an off-site public facility such that (a) the new residential development or new residential use creates a need, or an identifiable portion of a need, for one or more public facility improvements in excess of existing public facility

capacity at the time of the rezoning or proffer condition amendment and (b) each such new residential development or new residential use applied for receives a direct and material benefit from a proffer made with respect to any such public facility improvements.

In any action in which a locality has denied a rezoning or an amendment to an existing proffer and the aggrieved applicant proves by a preponderance of the evidence that it refused or failed to submit, or remain subject to, an unreasonable proffer that it has proven was suggested, requested, or required, formally or informally, by the locality, the court shall presume, absent clear and convincing evidence to the contrary, that such refusal or failure was the controlling basis for the denial.

#### **11. AirBnB – HB 812/SB 416**

Establishes the Limited Residential Lodging Act (the Act), which allows persons to rent out their primary residences or portions thereof for charge for periods of less than 30 consecutive days or do so through a hosting platform. Localities are preempted from adopting ordinances or zoning restriction prohibiting such short-term rentals, but authorized to adopt ordinances requiring persons renting their primary residences to have a minimum of \$500,000 of liability insurance, prohibiting persons from renting their primary residences if they fail to pay applicable taxes, and requiring persons renting their primary residences to register with the locality.

A hosting platform must register with the Department of Taxation to collect and remit all applicable taxes on behalf of the property owner using the hosting platform. The bill defines "limited residential lodging," "booking transaction," and "hosting platform" and provides for penalties for violations of the Act.

The bill contains a reenactment clause and directs the Virginia Housing Commission to convene a work group to further study the issues presented in the bill and make recommendations for consideration by the 2017 Session of the General Assembly.

#### **12. COPN – HB 193/HB 350**

The main COPN reform bill, HB 350, would have made changes to the Medical Care Facilities Certificate of Public Need Program. The bill removes various imaging equipment and behavioral health facilities from the list of medical care facilities and projects subject to the requirement of a certificate of public need and makes various changes to procedures governing the certificate of public need process, including

(i) defining "charity care" for purposes of the certificate of public need program;

(ii) establishing an expedited 45-day review process for applicants for projects determined by the Department of Health (the Department) to be uncontested and to present minimal health planning impacts and for which the applicant agrees to comply with quality assurance requirements established by the Board of Health (the Board) and consents to provide charity care in an amount specified by the Board;

(iii) establishing an expedited 120-day review process for applicants for projects identified by the Department to be uncontested and to present limited health planning impacts that require an intermediate level of scrutiny and for which the applicant agrees to comply with quality assurance requirements established by the Board and consents to provide charity care in an amount specified by the Board;

(iv) clarifies the content of a completed application for a certificate;

(v) eliminates the requirement for a public hearing on applicants for certificates;

(vi) reduces the timeline from 80 calendar days to four days for a person to be made party to the case for good cause following completion of the review and submission of recommendations related to an application;

(vii) requires the Department to establish a website to make information about the certificate of public need program, including information about letters of intent received by the Department, available to the public; and

(viii) establishes a permit process for projects that are no longer subject to the requirement for a certificate of public need, which includes provisions for charity care requirements and quality assurance.

The bill also creates the Virginia Charity Care Fund for the deposit of funds from contributions by medical care facilities and fines assessed in accordance with Article 1.1 and 1.2. The bill forms a task force to develop recommendations concerning the appropriateness of certificates of public need for specific medical care facilities and projects.

### **13. HR Budget Actions – HB 30 Various Items and HB 1344/SB 731**

The Children’s Hospital of the King’s Daughters was the only hospital in the state to receive 100% of their FY17 inflation adjustment. (Item 306 #18c)

Eastern Virginia Medical School received a \$2.7 million increase in base adequacy funding over the biennium. They also received bond funding for three capital projects: construction of their New Education and Academic Administration Building, renovate Hofheimer Hall, and renovate Lewis Hall. (Item 247 #1c and HB 1344/SB 731)

The Jamestown-Yorktown Foundation received more than \$10 million for the 400<sup>th</sup> Jamestown commemoration in 2019 and promotion of the new American Revolution Museum in Yorktown. (Item 238 #1c)

Jefferson Lab received \$2.4 million for their national competition to win the Department of Energy's Electron Ion Collider (EIC) project. The estimated construction cost of the EIC is over \$1 billion and the award should be made no sooner than the fall of 2017. The Commonwealth's total commitment for this competition is now \$6.5 million. (Item 254 #1c)

The budget restores the Payment in Lieu of Taxes (PILOT) to the port host localities, Norfolk and Portsmouth, to pre-recession levels of \$1 million. (Item 464 #1c)

The Virginia Sports Hall of Fame received a \$250,000 increase in FY17. (Item 129 #1c)

The Virginia Institute of Marine Science and Old Dominion University received \$1.7 million to establish a Center for Sea Level Rise and Coastal Resiliency. (Items 162.H and 181.G)